GOVERNMENT OF INDIA
COMMERCE AND INDUSTRY
LOK SABHA

UNSTARRED QUESTION NO:1214
ANSWERED ON:02.05.2016
Patent of Ayurvedic System of Medicine
Patle Smt. Kamla Devi

Will the Minister of COMMERCE AND INDUSTRY be pleased to state:

(a) whether the Government has received applications from various foreign and Indian companies for patenting the formulations prepared through traditional Indian Ayurvedic system of medicine ;

(b) if so, the details of the patents approved to the foreign/Indian companies for the said purpose;

(c) whether any proposal for restricting the patent of the formulations related to Indian Ayurvedic system of medicine to the Indian companies only is under consideration of the Government;

(d) if so, the details thereof and if not, the reasons therefor; and

(e) the steps taken by the Government for protecting the traditional medicines from getting patented by foreign companies?

Answer

THE MINISTER OF STATE (INDEPENDENT CHARGE)
OF THE MINISTRY OF COMMERCE & INDUSTRY
(SHRIMATI NIRMALA SITHARAMAN)

(a) & (b): While no database on applications received and patents granted specific to formulations prepared through traditional Indian Ayurvedic system of medicine is maintained by the Patent Office, the details of patents granted to the foreign / Indian companies related to Ayurvedic/ herbal based inventions are annexed herewith.

It may be mentioned that an invention which in effect is traditional knowledge or which is an aggregation or duplication of known properties of traditionally known component or components is not patentable under Section 3(p) of the Patents Act, 1970. However, inventions which fulfill the criteria prescribed for patentability in the Patents Act, 1970 can be granted patents.
(c) & (d): Under the Agreement on Trade Related Intellectual Property Rights (TRIPS Agreement) to which India is committed, every country is required to accord to the nationals of other members, treatment which is no less favourable than it accords to its own nationals with regard to the protection of intellectual property. Therefore, the question of restricting the grant of patents to inventions that meet the criteria of patentability to Indian companies only does not arise.

(e): The Government has taken measures to safeguard the national interest in respect of grant of patents based on indigenous medicinal / herbal products / plants, besides exclusions provided for in the Patents Act 1970. These exclusions and measures are outlined below:

â€¢ Patents cannot be granted to plants, including medicinal/ herbal plants, or any part thereof including seeds, varieties and species and essentially biological processes for production or propagation of plants as per section 3 (j) of the Patents Act, 1970.

â€¢ An invention, which in effect, is traditional knowledge or which is an aggregation or duplication of known properties of traditionally known component or components, is not patentable under Section 3(p) of the Patents Act, 1970.

â€¢ The Government has established the Traditional Knowledge Digital Library (TKDL) with the objective of preventing misappropriation of Indian traditional knowledge on Ayurveda, Unani and Siddha medicinal systems. The TKDL has been prepared in five languages, namely English, French, German, Japanese and Spanish in patent compatible format. It makes available Indian traditional knowledge which are already in public domain, to the patent examiners so that such patent applications which claim Indian traditional knowledge are rejected at the examination stage itself.

â€¢ The TKDL has been made available to select Patent Offices in the world for conducting prior art search for Indian traditional knowledge and not to grant patent if the subject-matter under the patent application pertains to the Indian traditional knowledge.

â€¢ Council of Scientific and Industrial Research files opposition in various patent offices across the world against any patent applications based on Indian Traditional Knowledge.

******